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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,519	05/10/2001	Donald E. Gillespie	DEG-10002/29	6344
7590 05/05/2004			EXAMINER	
John G. Posa Gifford, Krass, Groh et al 280 N. Old Woodward Ave., Suite 400 Birmingham, MI 48009			ART UNIT PAPER NUMBER	

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Communication Re: Appeal</b>	<b>Application No.</b> 09/852,519	<b>Applicant(s)</b> GILLESPIE, DONALD E.
	<b>Examiner</b> Shahnam Sharareh	<b>Art Unit</b> 1617

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

1. ☒ The Notice of Appeal filed on 12 December 2003 is not acceptable because:
- (a) ☐ it was not timely filed.
  - (b) ☒ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
  - (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
  - (d) ☒ the submitted fee of \$00 is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$55.
  - (e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
  - (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.
2. ☐ The appeal brief filed on \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below:
- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.
  - (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
  - (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).**

3. ☐ The appeal in this application is DISMISSED because:
- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
  - (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
  - (c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
  - (d) ☐ other: \_\_\_\_\_
4. ☐ Because of the dismissal of the appeal, this application:
- (a) ☐ is abandoned because there are no allowed claims.
  - (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
  - (c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

  
**RUSSELL TRAVERS**  
PRIMARY EXAMINER

***Defective Appeal Brief***

The Brief filed on February 17, 2004 is defective for the following reasons:

1. The brief includes a statement that claims 1-4, wherein claims 2-4 stand or fall with claim 1; claims 5-7, wherein claims 6-7 stand or fall with claim 5 and claim 8, should stand not stand or fall together, but fails to present reasons in support thereof as required under 37 CFR 1.192(c)(7). MPEP § 1206.
2. The Appeal Brief filed on February 17, 2004 is unacceptable because the fee required under 37 CFR 1.17 (a), (b), (c) was not timely filed for the following reasons:
  - The final action was mailed on September 10, 2003.
  - Applicant purchased no extension and filed a Notice of Appeal on December 12, 2003, therefore, the Brief should have been filed by February 12, 2004.
  - The Brief was filed on February 17, 2004 without any payment for one-month extension of time.
  - Therefore, under 37 CFR 1.17(a), (b) and (c), Appellant must pay an additional month to obtain appropriate extension of time until February 17, 2004.

This application will become abandoned unless appellant obtains an extension of time under 37 CFR 1.136(a) and files the required appeal brief fee. The date on which the appeal brief, the fee for filing the appeal brief, the petition under 37 CFR 1.136(a), and the petition fee under 37 CFR 1.17(a) are filed will

be the date of the reply and also the date for determining the period of extension and the corresponding amount of the fee. In no case may an appellant obtain an extension for more than FIVE MONTHS under 37 CFR 1.136(a), beyond the TWO MONTH period for filing the appeal brief.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahnam Sharareh whose telephone number is 571-272-0630. The examiner can normally be reached on 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, PhD can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RUSSELL TRAVERS  
PRIMARY EXAMINER